

FILED
Clerk
District Court

MAR - 5 2008

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMIN, MOHAMAD RUHUL.

Defendant.

CRIMINAL CASE NO. 08-00002

**EX-PARTE APPLICATION FOR
GOVERNMENT FUNDED
INVESTIGATOR**

COMES NOW, Defendant Md. Ruhul Amin by and through his counsel of record, Colin M. Thompson to move this Court for an Order providing for the indigent defendant a government-funded investigator.

AUTHORITY

This application is based on a criminal defendant's right to effective assistance of counsel. Rule 44(a) of the Federal Rules of Criminal Procedure provides for the appointment of Counsel. "Every defendant who is unable to obtain counsel shall be entitled to have counsel assigned to represent that defendant at every stage of the proceeding..." FRC.P Rule 44(a). The Federal statute reflects the development of the right from its Constitutional sources.

1 The Sixth Amendment states that "[i]n all criminal
2 prosecutions, the accused shall enjoy the right to a speedy
3 and public trial, by an impartial jury of the State and district
4 wherein the crime shall have been committed, which district
5 shall have been previously ascertained by law, and to be
6 informed of the nature and cause of the accusation; to be
7 confronted with the witnesses against him; to have
8 compulsory process for obtaining witnesses in his favor, and
9 to have the Assistance of Counsel for his defense."

10 In Johnson v. Zerbst, 304 U.S. 458 (1938), Justice Black wrote that the right to assistance of counsel,
11 "is necessary to insure fundamental human rights of life and liberty." In Johnson, the Court
12 announced an absolute rule requiring appointment of counsel for criminal defendants who could not
13 afford to retain a lawyer.

14 Later, the right to counsel was expanded. "[T]he right to counsel is the right to the effective
15 assistance of counsel." McMann v. Richardson, 397 U.S. 749, 771 n.14 (1970). The United States
16 Supreme Court has indicated that appointment must be made in a manner that affords effective aid in
17 the preparation and trial of the case. The government must not interfere with representation, either
18 through the manner of appointment or through the imposition of restrictions upon retained counsel
19 that would impede his ability fairly to provide a defense. From the above body of law, a procedure
20 has evolved for the application for government-funded transcription, investigation and other services
21 necessary for an adequate defense.

22 Under 18 U.S.C. 3006A (e), "Services Other Than Counsel. - (1) Upon Request. - **Counsel**
23 **for a person who is financially unable to obtain investigative, expert, or other services**
24 **necessary for adequate representation may request them in an Ex Parte Application.** Upon
25 finding, after appropriate inquiry in an ex -parte proceeding, that the services are necessary and that
the person is financially unable to obtain them, the court, or the United States magistrate if the
services are required in connection with a matter over which he has jurisdiction, shall authorize

1 counsel to obtain the services." Case law supports the application of the principles embodied in the
2 statute. See *United States v. Fields*, 722 F.2d 549, 551 (9th Cir.1983), cert. denied, 466 U.S. 931, 104
3 S.Ct.1718 80 L.Ed.2^d 189 (1984) See *United States v. Sims*, 617 F. 2d 1371, 1375 (9th Cir. 1980);
4 *United States v. Sanders* 459 F. 2d 1001, 1002 (9th Cir. 1972).

5 Based on the evidence offered in the attached Declaration of Colin M. Thompson and the
6 above-cited authority, defendant respectfully requests that this Court grant the instant application.
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8 Executed this 4th day of March, 2008.
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11 /s/
12 **COLIN M. THOMPSON**
13 Attorney At Law
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